



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

National Guardian Life Insurance Company
2 East Gilman Street
Madison, WI 53703-1494

dated June 16-30, 2003, and served upon the company on December 3, 2003, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 24th day of February, 2004.

Jorge Gomez
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**NATIONAL GUARDIAN LIFE INSURANCE COMPANY
MADISON, WISCONSIN**

JUNE 16 - 30, 2003

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November 14, 2002

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Honorable Jorge Gomez
Commissioner of Insurance
State of Wisconsin
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Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted June 16 to June 30, 2003 of:

NATIONAL GUARDIAN LIFE INSURANCE COMPANY
Madison, Wisconsin

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

National Guardian Life Insurance Company was originally incorporated in 1909 as the Guardian Life Insurance Company. Its present name, National Guardian Life Insurance Company was adopted in 1920. National Guardian Life Insurance Company is a mutual insurance company and is owned by its policyholders. National Guardian Life Insurance Company owns several insurance and non-insurance subsidiaries. The three primary insurance companies in the NGL Insurance Group are National Guardian Life, NGL American Life, and Settlers Life.

The major products marketed by National Guardian Life include: individual ordinary and universal life, individual single premium and flexible premium deferred annuities, individual single premium immediate annuities, and group annuities. In 2002, National Guardian Life decided to withdraw from the group life market except for its own employee and agent groups,

and prearranged funeral group policies. Consistent with management's objective of re-establishing balance between life insurance and annuities, the current marketing thrust is individual ordinary and universal life. National Guardian Life's primary market is providing life insurance to families with household income between \$35,000 and \$75,000 with particular emphasis on the final expense and funeral markets. Although in Wisconsin, National Guardian Life did not issue its first prearranged funeral policy until May, 2003.

As of December 31, 2002, the company was licensed in 47 states and the District of Columbia. The only states in which the company was not licensed were Massachusetts, New Hampshire, and New York. As of December 31, 2002, the company's total direct premium written in Wisconsin as compared to the total direct national premium written was as follows:

National Direct Business to Wisconsin Direct Business Summary

2002					
	Life Insurance Premiums	A&H Insurance Premiums	Annuity Considerations	Deposit Type Funds	Other Considerations
Wisconsin	\$11,759,320	\$878,904	\$10,364,885	\$1,352,017	-
National	\$35,248,770	\$2,194,486	\$21,457,554	\$1,782,377	-

The majority of the premium written by the company in 2002 was life insurance. As of December 31, 2002, the company reported the following premium written and benefits paid organized by line of business in Wisconsin:

Wisconsin Life Insurance Business

2002	Ordinary	Credit Life	Group	Industrial
Direct Premiums & Annuity Considerations				
Life Insurance	\$8,863,273		\$2,896,048	
Annuity Considerations	\$10,363,427		\$1,457	
Deposit Type Funds	\$1,352,017			
Other Considerations				
Direct Claims & Benefits Paid				
Death Benefits	\$3,082,001		\$2,696,736	
Annuity Benefits	\$3,274,644			
All Others	\$12,601,221		\$222,017	

The Office of the Commissioner of Insurance (OCI), received nine complaints against the company between January 1, 2001 through May 1, 2003. Five of the nine complaints involved individual life insurance. Of the five complaints involving individual life, one concerned misrepresentation of how a universal life policy works. The other four involved policyholder service issues dealing with billing, premium payments crossing in the mail, billing the wrong person (ex-husband), and a commission dispute between two agents. Two of the complaints involved individual annuities. One concerned the receipt of a 1099 form which the policyholder thought was a tax bill, and the other dealt with beneficiaries not satisfied with receiving the balance of a 10 year certain payout after their father died within 2 years. The other two complaints concerned a viatical investment and disability policy provision. The company was not on OCI's above-average complaint list in either 2001 or 2002. A complaint is defined, as "a written communication received by the Commissioner's Office that indicates dissatisfaction with an insurance company or agent." The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Complaints Received

2003		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Life					
Individual Life				1	
Group Life					
Individual Annuity					
Group Annuity					
Credit Life					
All Others					
Total				1	

2002		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Life					
Individual Life		1			
Group Life					
Individual Annuity			1		
Group Annuity					
Credit Life					
All Others				1	
Total		1	1	1	

2001		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Life					
Individual Life				2	1
Group Life					
Individual Annuity				1	
Group Annuity					
Credit Life					
All Others					1
Total				3	2

II. PURPOSE AND SCOPE

The examination was conducted to determine compliance with recommendations made in the previous market conduct examination dated November 20, 1997, and to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2002 through May 1, 2003. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination included, but was not limited to, a review of claims, company operations and management, marketing, sales and advertising including e-commerce and illustrations, policy forms, policyholder service and complaints, privacy, producer licensing, and underwriting that includes aids, domestic abuse, new business and replacement.

The report is prepared on an exception basis, and comments on those areas of the company's operations where adverse findings were noted.

III. PRIOR EXAMINATION RECOMMENDATIONS

The previous market conduct examination of National Guardian Life Insurance Company (NGL), as adopted November 20, 1997, contained 16 recommendations. The market conduct portion of the prior examination was conducted in conjunction with an examination by the Financial Analysis and Examination Bureau of the Office of the Commissioner of Insurance (OCI). The market conduct portion of the prior examination consisted of a review of claims, company operations and management, marketing, sales and advertising, policy forms, policyholder service and complaints, producer licensing, and underwriting that included AIDS, domestic abuse, new business and replacement. Following are the recommendations and the examiners' findings regarding the company's compliance with each recommendation.

Marketing, Sales and Advertising

1. It is recommended that NGL maintain all advertisements in its advertising file while they are in use, and for a period of three years thereafter, as required by s. Ins 2.16(30), Wis. Adm. Code.

Action: Compliance

2. It is recommended that NGL note the manner and extent of distribution on each advertisement in its advertising file, pursuant to s. Ins 2.16(30), Wis. Adm. Code.

Action: Compliance

3. It is recommended that NGL include form numbers on all its advertisements, pursuant to s. Ins 2.16(28), Wis. Adm. Code.

Action: Compliance

Producer Licensing

4. It is recommended that the effective date of the licensing contract between the agent and the company be noted in each agent file.

Action: Compliance

5. It is recommended that OCI form 11-001 be kept in all agent files to show when the agent's listing with the company became valid, and that NGL submit form 11-001 to OCI on or before the date of appointment, pursuant to s. Ins 6.57(1), Wis. Adm. Code.

Action: Compliance

6. It is recommended that NGL include a copy or verification of the agent's insurance license in each agent file.

Action: Compliance

7. Agents – It is recommended that NGL accept an insurance application written by an agent, only after the agent has been properly listed with the company, pursuant to s. Ins 6.57(5), Wis. Adm. Code.

Action: Non-Compliance

For information, see Producer Licensing under Current Examination Findings.

8. It is recommended that NGL notify OCI of the termination of an agent prior to or within 15 calendar days of the termination date, and that a copy of form 11-011 be kept in the agent file, pursuant to s. Ins 6.57(2), Wis. Adm. Code.

Action: Compliance

9. It is recommended that the reason for termination be stated in the agent's file.

Action: Compliance

10. It is recommended that all of NGL's agent termination notices include a formal demand for the return of indicia, pursuant to s. Ins 6.57(2), Wis. Adm. Code.

Action: Compliance

11. Agents – It is recommended that NGL send written notice to all terminated agents that they no longer are listed as a representative of the company and that they may not act as a company representative, within 7 days of or prior to filing form 11-011 with OCI, as required by s. Ins 6.57(2), Wis. Adm. Code.

Action: Compliance

Underwriting

12. It is recommended that NGL develop procedures to determine whether replacement is involved when the agent and consumer replacement questions on the application are not answered the same as required by s. Ins 2.07(5)(a)2, Wis. Adm. Code.

Action: Compliance

13. It is recommended that NGL develop procedures to ensure it obtains answers to both the agent and consumer replacement questions on the application before the application is accepted, as required by s. Ins 2.07(5)(a)1, Wis. Adm. Code.

Action: Compliance

14. It is recommended that NGL develop procedures to ensure that it sends written notification of replacement to the insurer whose policy is being replaced within five days of receipt of the application, as required by s. Ins 2.07(5)(a)4b, Wis. Adm. Code.

Action: Compliance

15. It is recommended that NGL develop procedures to ensure that it obtains a copy of the notice of replacement form which is to be completed and secured with the application when replacement is involved, and that it maintains a copy of the notice in the file of the policy which is replacing another policy, as required by s. Ins 2.07(5)(a)4a, Wis. Adm. Code.

Action: Compliance

16. It is recommended that NGL develop written procedures and underwriting guidelines for handling applications in which domestic abuse is known, to ensure consistent underwriting standards pursuant to s. 628.34(3), Wis. Stat.

Action: Compliance

IV. CURRENT EXAMINATION FINDINGS

Claims

Upon initial notification of a life or annuity death claim, the company and all subsidiaries are checked for policies where the deceased is an insured, owner, or beneficiary, and this information is recorded on the Death Claim Policy Index form. In addition, names are checked in a variety of spellings and social security numbers are checked and verified. Once this is completed, a letter is sent within one to three business days with the forms necessary to be completed to properly administer the claim. When the completed forms are received, the claim is reviewed, approved, paid or denied. The beneficiary is notified of the outcome via a payment letter or denial letter.

The examiners reviewed the company's response to the claims interrogatory, hiring process for claims processors, training requirements, and the company's procedures for handling claims from the date received through closing. The examiners also reviewed how claim denials are explained, how claims involving allegations of misconduct and fraud are handled, claim audits, and how interest is calculated and paid. No exceptions were noted.

Company Operations and Management

The examiners reviewed the company's response to the company operations and management interrogatory.

National Guardian Life Insurance Company was an original charter member of the Insurance Marketplace Standards Association (IMSA). IMSA certification is given when a company can show its compliance with IMSA's principles and codes. In 2002, National Guardian Life Insurance Company made the decision not to maintain its IMSA membership or to incur the cost of recertification. At the time, the company felt that the benefits received from its IMSA certification did not justify the financial cost involved in maintaining its certification. National Guardian Life Insurance Company continues to utilize the IMSA standards and practices in its business operations. No exceptions were noted.

Marketing, Sales and Advertising

The Marketing Department, with oversight by the Legal/Compliance Department, is responsible for marketing, sales and advertising functions. The Marketing Department is responsible for developing and reviewing the content of each marketing/advertising piece for consistency and compliance with product specification, appropriate disclaimers and appropriate phrases and terms. The Legal/Compliance Department also reviews each advertisement to ensure its compliance with the state's regulation and to determine its suitability for the consumer. No marketing/advertising materials may be utilized until they have been approved by the Legal/Compliance Department.

The company partners with banks to market its life products. A business reply card and/or 800 telephone numbers are included in bank statement mailings to bank customers and through direct mail offers to obtain customer leads. Once leads are received, the information is turned over to a producer to respond to the customer.

National Guardian Life Insurance Company works with third party marketers, who work with companies to provide product kits for producers. The product kits provide the producers with appropriate product information. National Guardian Life Insurance Company offers product kits such as the Senior Life Kit and the Traditional Product Kit. National Guardian Life Insurance Company also reviews all promotional materials using National Guardian Life Insurance Company's name and products.

National Guardian Life's website pages are printed out and kept in a paper advertising file just as any other advertisement. Changes to the website are handled the same as all other advertising requiring the review of the Legal/Compliance Department prior to use. All changes to the website pages are printed out and kept in the advertising file. All changes to the website are also logged and kept on file in a word document that records the changes made, date changes were approved by the Legal/Compliance Department, and the date the changes took effect.

All producer advertising must be approved by the company before use. The company does not reimburse producers for their advertising expenses.

The examiners reviewed the company's response to the marketing, sales and advertising interrogatory, the short-range and long-range marketing plans, sales reports, copies of newsletters and bulletins, and the compliance manual provided to producers.

The examiners reviewed 50 advertising files. The following exceptions were noted:

The examiners found that two advertisements, #ACS 07/02 and #MEH 09/02, used NGL Insurance Group instead of the full name of the company, National Guardian Life Insurance Company. The company advised the examiners that the advertisements were public relations advertisements for the company in general, and were not advertising any specific insurance product. NGL Insurance Group is not a licensed insurer in Wisconsin and does not clearly identify the name of the insurer in the advertisement as required by s. Ins 2.16(8)(a), Wis. Adm. Code. Also, s. Ins 2.16(8)(b), Wis. Adm. Code, states that no advertisement may contain a trade name, an insurance group designation or the name of the parent company of the insurer which has the capacity or tendency to mislead or deceive as to the identity of the insurer.

- 1. Recommendation:** It is recommended that the company use the name of the insurance company in all advertisements to clearly identify the insurer in order to comply with s. Ins 2.16(8)(a), Wis. Adm. Code.

The examiners also found an advertisement, #USB 05/03, which disclosed that the life product was underwritten by National Guardian Life Insurance Company, but the print was too small to clearly identify the insurer. The company explained that it partners with banks to market its life products to the banks' existing customers, and because of the affinity a bank has with its customers, the bank name is made the most prominent on the direct mail offer or statement insert. The company said that there is no affinity relationship between the insurance company and the customers, so the company chose not to bring attention to its name; however, the advertisement discloses that the product is underwritten by National Guardian Life

Insurance Company. Section Ins 2.16(8)(a), Wis. Adm. Code, requires each advertisement to clearly identify the insurer.

2. **Recommendation:** It is recommended that the company increase the size of the print in form USB 05/03 and all similar advertisements in order to clearly identify the insurer as required by s. Ins 2.16(8)(a), Wis. Adm. Code.

Electronic Commerce

The Information Technology, Marketing and Legal/Compliance Departments are responsible for overseeing the company's Internet and World Wide Web activities.

National Guardian Life Insurance Company's website provides information about the company, explains what the different types of life and annuity products offered by the company are, has links to product specific pages, includes a producer locator, and has a career opportunities section for individuals who may be interested in applying for employment with National Guardian Life Insurance Company either with the home office or as a producer. The website also has a customer service section that allows the company's policyholders access to their account information with a personal identification number (PIN), and to download a beneficiary change form. There is no producer only section on the website. The website does not allow individuals to apply for insurance online. The company does not accept electronic submission of insurance forms from either producers or consumers. It is possible to contact the company and/or the producer by e-mail from the website.

National Guardian Life Insurance Company allows its producers to advertise on the Internet and to establish websites that include or provide information about the company and/or its insurance products. The company requires that all advertisements on the Internet and websites be approved by the Marketing and Legal/Compliance Departments. A list of any producer who has a website is kept on file in the company's advertising log. The company's Compliance Specialist routinely performs a search of the Internet to monitor producer websites and to make sure that all websites and any changes to websites have been approved by the company.

National Guardian Life Insurance Company advertises and posts information on two Internet sites other than the sites established and maintained by the company. One of the websites is the National Association of Insurance Marketers (NAIM). This website includes a company listing, a brief overview of the company, and general product information. A link is provided to NAIM members which enables members access to National Guardian Life Insurance Company's website. The other website is Senior Market Sales. This website includes information on the Critical Illness Product, a company listing, and a company rating. Any leads generated are followed up by licensed producers.

The examiners reviewed the company's response to the e-commerce interrogatory, the company's home page, and browsed the Internet for any individual producer advertising on the Internet. No exceptions were found.

Illustrations

The Actuarial Department is responsible for the product development, design, pricing, and implementation along with the format and numerical integrity of all illustrations.

The examiners reviewed the company's response to the illustration interrogatory, sample illustrations and the Statement of Policy Cost and Benefit Information. The company has procedures in place that comply with the life insurance illustration rule, s. Ins 2.17, Wis. Adm. Code. The examiners reviewed 84 underwriting files in which life insurance illustration rules would apply. Examiners found one file that did not have a copy of the signed illustration as required by s. Ins 2.17(8)(a), Wis. Adm. Code, nor did the file have a signed form stating that no illustration was used in the sale of the life insurance policy as required by s. Ins 2.17(8)(b), Wis. Adm. Code. The company admitted to the examiners that the company's procedures were not followed in this case. No other exceptions were found.

Policy Forms

The Legal/Compliance Department is responsible for rate and form filings. The examiners reviewed the company's response to the policy forms interrogatory, compliance with

s. Ins 6.85, Wis. Adm. Code, that requires an insurer to notify its insureds of their right to file a complaint, and verified that all 131 of the policy forms currently in use by the company in Wisconsin have, in fact, been approved for use in Wisconsin. The examiners reviewed three deemed policy forms. OCI relied on the insurer's certification that the three policy forms complied with Wisconsin statutes and rules. These forms were deemed to be approved and were reviewed for compliance as part of this examination. No exceptions were noted.

Policyholder Service and Complaints

The National Guardian Life Insurance Company's Complaint Response Team is responsible for the handling of both Office of the Commissioner of Insurance (OCI) complaints and complaints made directly to the company. The Complaint Response Team is comprised of representatives of Marketing, New Business, Customer Service, and Legal/Compliance Departments. The company distinguishes between formal and informal complaints. A formal complaint is defined as a communication expressing an allegation of a violation of the Unfair Trade Practices such as misrepresentation, deceptive sales practices, replacement regulation violations, etc. Also, any complaint which is submitted through a state insurance department is automatically considered a formal complaint regardless of the circumstances. The company defines an informal complaint, as any complaint which is generated and logged to track trends or internal issues such as a policyholder who did not receive his premium billing notice. The company would log this complaint so that it could track whether it was an isolated case or whether the company had an internal issue with the mailing of premium billing notices.

The company's Marketing and Legal/Compliance departments work together to monitor complaints against producers, and producers having a high number of complaints are investigated.

The examiners reviewed the company's response to the policyholder service and complaint interrogatory, all four of the Office of Commissioner of Insurance (OCI) complaints and both (two) non-Office of Commissioner of Insurance complaints. The two non-Office of

Commissioner of Insurance complaints were the only two non-Office of Commissioner of Insurance complaints listed on the company's formal complaint log. The examiners found that in one of the Office of Commissioner of Insurance (OCI) complaints, it took the company 18 days to respond to the complainant and 31 days to respond to the Office of the Commissioner of Insurance (OCI), which is longer than the time frames specified in the OCI 51-11 letter. The OCI 51-11 letter is the initial letter to the company informing it of the complaint and requesting that the company respond to the complainant within 10 days and to the Office of the Commissioner of Insurance (OCI) within 20 days. Section 601.42(1g)(a), Wis. Stat., allows the commissioner to require insurers to provide information within a reasonable time frame. National Guardian Life Insurance Company does have procedures in place that comply with the Office of the Commissioner of Insurance's timeline for handling complaints, but failed to follow the procedures in this one complaint. No other exceptions were noted.

Prearranged Funeral Plans

National Guardian Life Insurance Company's Preneed Service Department is responsible for the administration of funeral policies. The Preneed Service Department handles all new funeral policy applications as well as ongoing administration and claims processing on existing funeral policies.

The examiners reviewed the company's response to the prearranged funeral plans interrogatory, preneed compliance manual, new business and claims handling procedures, disclosure statements, delivery receipt, revocable and irrevocable assignment forms, and National Guardian Life Insurance Company Funeral Expense Trust agreement.

Prior to and during the period of review, National Guardian Life Insurance Company had not issued any funeral policies. The company issued its first prearranged funeral policy in Wisconsin on May 15, 2003. The company's policies and procedures regarding prearranged funeral plans appear to comply with s. 632.415, Wis. Stat., and s. Ins 23, Wis. Adm. Code. No exceptions were noted.

Privacy and Confidentiality

The examiners reviewed the company's response to the privacy of consumer financial and health information interrogatory, the company's privacy policy, administrative, physical, and technical privacy standards, privacy notice, employee privacy guidelines included in the employee handbook, authorization on applications and claim forms, producer contracts, and producer compliance manual.

The examiners found that the company had implemented a privacy policy in March of 2001. The company's General Counsel was appointed the privacy officer with oversight of the privacy policy. The privacy officer works with management from other departments to ensure that National Guardian Life Insurance Company meets its obligations to comply with privacy notice, disclosure, and confidentiality protections required under state and federal law.

The examiners found that the company had developed a plan for oversight of its privacy and confidentiality process that involved its management team, privacy officer, and board of directors. The examiners also found that the company had instituted its privacy and confidentiality process by drafting its privacy policy, providing the information on its website, incorporating information regarding handling private information into its employee handbook and producer compliance manual, and incorporating language regarding protecting the privacy and confidentiality of applicant and policyholder information into the producer contracts.

The company stated that the privacy notice is mailed with each new policy and reinstated policy, as well as when a change of ownership or an irrevocable change of beneficiary is made. National Guardian Life Insurance Company's privacy notice is mailed annually to all policyholders as required by law.

The company stated that its privacy policy has not been subject to either an internal or external audit; however, an internal audit is planned for late in 2003. The company also stated that it had not developed an "opt-out" form, since it does not disclose any non-public personal financial information about a consumer.

The examiners found that the company has made a significant effort towards meeting the privacy and confidentiality requirements under s. 610.70, Wis. Stat., and s. Ins 25, Wis. Adm. Code. No exceptions were noted.

Producer Licensing

The Marketing Services Division in the Marketing Department is responsible for the management of producer contracts and producer licensing, appointments and terminations. All the company's producers hold a brokerage type contract with the company. The contract types for the traditional lines are broker, general broker, master general broker, and for the preneed lines are broker, broker manager, and supervisor. The producers are segmented mainly by product line: Senior Life, Preneed, Critical Illness, and Traditional which includes whole life, universal life and annuities. Each product line has an assigned manager associated with it, who is responsible for overall product and producer performance. The product line managers drive the producer management process and use systematically generated reports on business produced by each producer and agency to determine the quality of business written and to determine if any action should be taken with a particular producer.

The examiners reviewed the company's response to the producer licensing interrogatory, its agency producer manual, appointment and termination procedures, agent contracts, and 50 producer files that included 25 active and 25 terminated producers.

National Guardian Life Insurance Company has procedures relating to producers who have not met their continuing education requirements. When the company receives a list from OCI every other February of producers whose license has been suspended for not complying with continuing education requirements, it changes each producer's status to pending in order to prevent any new applications submitted by the producers from being processed. The company does not follow up with producers regarding their failure to meet continuing education requirements. The company stated that if it receives notice from OCI that a provider's license has been revoked as of May 1, for not satisfying the continuing education requirement, it then

terminates the producer's appointment on that same date. Examiners verified that the appointments of three producers revoked for failure to meet their continuing education requirements were terminated by National Guardian Life Insurance Company on May 1, 2003.

The examiners requested from National Guardian Life Insurance Company a listing of all producers licensed and appointed in Wisconsin. The producer licensing data provided by National Guardian Life Insurance Company was compared to the producer database maintained by the Office of the Commissioner of Insurance (OCI). The examiners found that three producers, who were not appointed with the company, had submitted applications and policies were issued. One of the unlisted producers had submitted 399 applications from January 1, 2000 to May 1, 2003. The company's response was that there was an inadvertent administrative error, and his appointment form which should have been submitted on January 1, 2000, was not submitted to OCI. The company explained that at the time, a procedure was not in place to "pend" the producer in the system to withhold business from being accepted, which procedure was later implemented in 2001. The company said this agent's appointment error was discovered in May of 2003, when the procedures to verify its list of appointed producers against the renewal listing received annually from OCI was implemented. National Guardian Life Insurance Company has subsequently submitted the agent's appointment electronically and has received confirmation of his appointment from OCI. Another producer submitted one application and the policy was issued. The company stated that his appointment was submitted electronically but was rejected due to an effective date, and because of an administrative error, was not resubmitted. Upon notification by the examiners, the producer was put in a pending status, and his appointment has been resubmitted to OCI. The third producer also only submitted one application. The company said his appointment was sent on August 27, 2002; however, there is not a confirmation from OCI in the file. Upon notification by the examiners, the producer was put in a pending status, and his appointment has been resubmitted to OCI.

One of the recommendations from the previous market conduct examination was that the company only accept insurance applications written by a producer only after the producer has been properly listed with the company as required by s. Ins 6.57(5), Wis. Adm. Code. The acceptance by the company of 401 applications from the three producers not listed with the company does not comply with s. Ins 6.57(5), Wis. Adm. Code that states that no insurer shall accept business directly from any producer unless that producer is a licensed producer and listed with that insurer.

- 3. Recommendation:** It is recommended that the company follow its established procedures for not accepting any business from any producer until the producer has been properly listed with the company as required by s. Ins 6.57(5), Wis. Adm. Code.
- 4. Recommendation:** It is recommended that the company develop and implement procedures to annually reconcile the agent billing statement from OCI to ensure that the company's agent database is accurate and corresponds with OCI agent listing information, and to ensure that the company is in compliance with s. Ins 6.57 (1), Wis. Adm. Code.

During the review of the 25 terminated producer files, examiners found two files that did not include an agent termination letter requesting the return of indicia. The company's response was that its termination checklist indicated that termination letters were sent, but it cannot locate a copy of the actual letters sent. The company stated that its current process of imaging all producer paperwork should alleviate situations of misplaced paperwork in the future. No other exceptions were noted.

Underwriting

The Underwriting Department is responsible for processing all life and annuity applications received by the company except for funeral policies. National Guardian Life Insurance Company utilizes an automated computer system (ID3) to process and track new applications. When an application is put into ID3, the system automatically checks for an active license status of the producer in the application state. If the producer is not licensed and listed with the company, the application cannot be processed. A service representative handles the

applications from receipt to policy issue. Life applications are processed by the assigned service representative and reviewed by the underwriter who has authority to approve coverage up to \$400,000. A request for medical information is based on the age and amount of insurance applied for. The temporary insurance agreement allows coverage to be effective at the time of application up to \$250,000.

Currently, the company is not able to accept business submitted electronically. National Guardian Life Insurance Company is currently working on a project which would allow producers to submit business via Web based applications sometime in the fall of 2003.

The examiners reviewed the company's response to the new business and underwriting, AIDS underwriting, domestic abuse, and replacement interrogatories. The examiners reviewed 50 life new business issued files, 50 annuity new business issued files, all 41 life new business declined files, 50 replacement life new business files, and 50 replacement annuity new business files.

The examiners reviewed the company's underwriting procedures regarding AIDS and testing for HIV, the company's current Wisconsin Notice and Consent for AIDS-Related Blood Test form, the company's current Resources for Persons with a Positive HIV Test/The Implications of Testing Positive for HIV form, and the company's procedures regarding confidentiality of medical records. No exceptions were noted. The company's policies and procedures regarding AIDS and HIV testing appear to comply with ss. 631.90 and 631.93, Wis. Stat., and s. Ins 3.53, Wis. Adm. Code.

The company has developed a written procedure regarding domestic abuse for its underwriting manual that the examiners reviewed. According to the company's procedures, domestic abuse includes both physical abuse and sexual assaults. The procedures state that if domestic abuse is disclosed, an application is to be forwarded to the Legal Department for review. The company stated that most of its policies are simplified issue, and domestic abuse has never been an issue. The company's policies and procedures regarding confidentiality of

medical records also include information about domestic abuse. The company's handling of domestic abuse appears to comply with s. 631.95, Wis. Stat.

The prior market conduct examination report contained recommendations that the company develop procedures pertaining to the company's processing of applications involving replacement. The examiners reviewed the company's replacement procedures. In a replacement situation, when a new business application is received, the service representative makes sure that both the applicant's and the producer's replacement questions are answered and answered the same, a replacement notice that complies with s. Ins 2.07(6), Wis. Adm. Code, is included and that a Replacement Comparison Form is completed. The company has a Replacement Comparison Form for both life insurance and annuities, that compares the policy being replaced with the new policy, and that is signed by both the applicant and the producer. The replacement notification letter to the insurer whose policy is or may be replaced is sent out within five calendar days. The company's Marketing Department produces a monthly report which reviews the business, including replacements, of each producer. The report is reviewed by the Marketing, Accounting and Legal/Compliance Departments. The company's Compliance manual sets out that replacements may not exceed 5% of a producer's inforce business. The company states, that any questionable business activity is further investigated by the Marketing and the Legal/Compliance Departments.

During the review of 100 new business files and 100 new business replacement files, examiners found four files in which the producers did not answer the producer replacement question as required by s. Ins 2.07(4)(a)3, Wis. Adm. Code. The company's response was that its established procedure of contacting the producer to create an amendment to correct the error was not followed in these four files. The company's processing of the applications without the completed producer statement does not comply with s. Ins 2.07(5)(a)1, Wis. Adm. Code, that requires that the insurer secure with each application the statements as to whether the new insurance or annuity will replace existing insurance or an annuity.

5. **Recommendation:** It is recommended that the company follow its established procedures of creating an amendment to obtain an answer to a replacement question that is left unanswered on an application to ensure compliance with s. Ins 2.07(5)(a)1, Wis. Adm. Code.

The examiners found that in two of the new business life replacement files, the company did not send the replacement notification letter to the insurer whose policy is, or may be replaced within five days of receipt of the application as required by s. Ins 2.07(5)(a)4b, Wis. Adm. Code. The company stated that there is no indication in the files as to why the company's replacement procedure of notifying the insurer whose policy is or may be replaced within five days of receipt of the application was not followed. Since the time both policies were issued, the Underwriting Department has been provided with a state by state replacement reference guide on replacement requirements entitled, Replacement Regulation Reference Guide. The Replacement Regulation Reference Guide is a quick reference guide that attempts to make it easier for the underwriters to check on the specific replacement requirements for each state. This reference guide is maintained by the company's Legal/Compliance Department to ensure that the state requirements are kept up to date. The company's failure to notify the replaced insurers within five days of receipt of the applications and prior to commencing any underwriting is a violation of s. Ins 2.07(5)(a)4b, Wis. Adm. Code, that states that within five days of receipt of the application and prior to commencing any underwriting, the insurer must send written notification of possible replacement to the home office of the replaced insurer.

6. **Recommendation:** It is recommended that the company follow its established procedures of sending written notification of replacement to the home office of the replaced insurer within five days of receipt of the application and prior to commencing any underwriting to ensure compliance with s. Ins 2.07(5)(a)4b, Wis. Adm. Code.

V. CONCLUSION

The prior examination report contained 16 market conduct recommendations in the areas of advertising, producer licensing, and underwriting. The company was found to be in compliance with all but one of the prior recommendations. In addition to the repeat recommendation, five new recommendations were written in the areas of advertising, producer licensing, and underwriting.

The repeat recommendation is that the company only accept an insurance application written by a producer who is licensed and listed with the company as required by s. Ins 6.57(5), Wis. Adm. Code.

The new underwriting recommendations were made concerning the company's new business procedures involving replacements. Although the company had established procedures that complied with Wisconsin insurance regulations and the recommendations that were made in the prior examination report, those procedures were not always followed by the company.

VI. SUMMARY OF RECOMMENDATIONS

Marketing, Sales & Advertising

- Page 11 1. It is recommended that the company use the name of the insurance company in all advertisements to clearly identify the insurer in order to comply with s. Ins 2.16(8)(a), Wis. Adm. Code.
- Page 12 2. It is recommended that the company increase the size of the print in form USB 05/03 and all similar advertisements in order to clearly identify the insurer as required by s. Ins 2.16(8)(a), Wis. Adm. Code.

Producer Licensing

- Page 19 3. It is recommended that the company follow its established procedures for not accepting any business from any producer until the producer has been properly listed with the company as required by s. Ins 6.57(5), Wis. Adm. Code.
- Page 19 4. It is recommended that the company develop and implement procedures to annually reconcile the agent billing statement from OCI to ensure that the company's agent database is accurate and corresponds with OCI agent listing information, and to ensure that the company is in compliance with s. Ins 6.57 (1), Wis. Adm. Code.

Underwriting

- Page 22 5. It is recommended that the company follow its established procedures of creating an amendment to obtain an answer to a replacement question that is left unanswered on an application to ensure compliance with s. Ins 2.07(5)(a)1, Wis. Adm. Code.
- Page 22 6. It is recommended that the company follow its established procedures of sending written notification of replacement to the home office of the replaced insurer within five days of receipt of the application and prior to commencing any underwriting to ensure compliance with s. Ins 2.07(5)(a)4b, Wis. Adm. Code.

VII. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance (OCI), State of Wisconsin, participated in the examination.

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Respectfully submitted,

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Examiner-in-Charge